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1
2 SUPREME COURT OF THE STATE OF NEW YORK
3 COUNTY OF KINGS

4 -----x
5 STALIN RODRIGO REYES ESPINOZA,

6 PLAINTIFF,

7 -against- Index No.:
8 515197/19

9 DAVS PARTNERS, LLC and KALNITECH
10 CONSTRUCTION COMPANY,

11 DEFENDANTS.

12 -----x

13 DATE: May 11, 2022

14 TIME: 12:35 P.M.

15 EXAMINATION BEFORE TRIAL of the
16 Defendant, KALNITECH CONSTRUCTION COMPANY,
17 By KOSTAS STOUPAKIS, taken by the Respective
18 Parties, pursuant to a Court Order, held via
19 videoconference, before Rivka Trop, a Notary
20 Public of the State of New York.

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2 APP E A R A N C E S:

3

4 GORAYEB & ASSOCIATES, P.C.

5 Attorneys for the Plaintiff

100 William Street

New York, New York 10038

6 BY: GREGORY GASTMAN, ESQ.

7

8 LAW OFFICES OF MICHAEL SWIMMER

9 Attorneys for the Defendant

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10 605 3Rrd Avenue, 9th Floor

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11 BY: ROBERT BRIGANTIC, ESQ.

12

13 RICHMAN & LEVINE

14 Attorneys for the Defendant

DAVS PARTNERS LLC

15 666 Old Country Road, Suite 101

16 Garden City, New York 11530

17 BY: KEITH RICHMAN, ESQ.

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2 221. UNIFORM RULES FOR THE
3 CONDUCT OF DEPOSITIONS

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221.1 Objections at Depositions

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(a) Objections in general. No
objections shall be made at a deposition
except those which, pursuant to subdivision
(b), (c) or (d) of Rule 3115 of the Civil
Practice Law and Rules, would be waived if
not interposed, and except in compliance
with subdivision (e) of such rule. All
objections made at a deposition shall be
noted by the officer before whom the
deposition is taken, and the answer shall be
given and the deposition shall proceed
subject to the objections and to the right
of a person to apply for appropriate relief
pursuant to Article 31 of the CPLR.

6

(b) Speaking objections restricted.
Every objection raised during a deposition
shall be stated succinctly and framed so as
not to suggest an answer to the deponent
and, at the request of the questioning
attorney, shall include a clear statement as
to any defect in form or other basis of
error or irregularity. Except to the extent
permitted by CPLR Rule 3115 or by this rule,
during the course of the examination persons
in attendance shall not make statements or
comments that interfere with the
questioning.

7

221.2 Refusal to answer when objection is
made A deponent shall answer all questions
at a deposition, except (i) to preserve a
privilege or right of confidentiality, (ii)
to enforce a limitation set forth in an
order of the court, or (iii) when the
question is plainly improper and would, if
answered, cause significant prejudice to any
person. An attorney shall not direct a
deponent not to answer except as provided in
CPLR Rule 3115 or this subdivision. Any
refusal to answer or direction not to answer
shall be accompanied by a succinct and clear
statement of the basis therefor. If the
deponent does not answer a question, the
examining party shall have the right to
complete the remainder of the deposition.

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2 221. UNIFORM RULES FOR THE
3 CONDUCT OF DEPOSITIONS

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5 221.3 Communication with the deponent

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7 An attorney shall not interrupt the
8 deposition for the purpose of communicating
9 with the deponent unless all parties consent
10 or the communication is made for the purpose
11 of determining whether the question should
12 not be answered on the grounds set forth in
13 section 221.2 of these rules and, in such
14 event, the reason for the communication
15 shall be stated for the record succinctly
16 and clearly.

17

18 IT IS FURTHER STIPULATED AND AGREED
19 that the transcript may be signed before any
20 Notary Public with the same force and effect
21 as if signed before a clerk or a Judge of
22 the court.

23

24 IT IS FURTHER STIPULATED AND AGREED
25 that the examination before trial may be
utilized for all purposes as provided by the
CPLR.

26

27 IT IS FURTHER STIPULATED AND AGREED
28 that all rights provided to all parties by
29 the CPLR cannot be deemed waived and the
30 appropriate sections of the CPLR shall be
controlling with respect hereto.

31

32 IT IS FURTHER STIPULATED AND AGREED by
33 and between the attorneys for the respective
34 parties hereto that a copy of this
35 examination shall be furnished, without
36 charge, to the attorneys representing the
37 witness testifying herein.

38

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1 K. STOUPAKAS
2 K O S T A S S T O U P A K A S, called as a
3 witness, having been first duly sworn by a
4 Notary Public of the State of New York, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. GASTMAN:

8 Q. Please state your name for the
9 record.

10 A. Kostas Stoupakis.

11 Q. Where do you reside?

12 A. 204-19 24th Avenue, 23rd Avenue,
13 Bayside, New York 11360.

14 THE COURT REPORTER: Would you
15 like a copy of the transcript?

16 MR. RICHMAN: Yes.

17 Q. Good afternoon.

18 A. Good afternoon.

19 Q. My name is Gregory Gastman. I am
20 an attorney with the law firm of Gorayeb &
21 Associates. But today, myself and my firm
22 represent a construction worker, maybe you
23 know him, maybe you don't, his name is
24 Stalin Rodrigo Reyes Espinoza.

25 I am going to ask you a few

1 K. STOUPAKAS
2 questions about his accident on June 28th,
3 2019. There are a few ground rules for
4 these type of sessions, forgive me if you
5 heard these a million times before, they
6 make me say them again.

7 A. No problem.

8 Q. My questions are designed to be
9 straightforward, but it doesn't always work
10 out. So if any question is not understood,
11 stop me and tell me, Greg, I don't
12 understand, and I am happy to rephrase
13 anything for you.

14 A. Okay.

15 Q. We tell all witnesses, no guessing
16 allowed, if you hear a question and you
17 don't know the answer, you are allowed to
18 say I don't know, okay?

19 A. Yes.

20 Q. Sometimes witnesses have an answer
21 and it is not exact, exact, it is an
22 approximation. Sir, that would be fine. We
23 only ask if you are approximating, you just
24 let us know you are approximating, okay?

25 A. Yes.

1 K. STOUPAKAS

2 Q. Thank you, sir, common examples of
3 when witnesses might approximate on these
4 kind of cases, it might be a date, a
5 distance, a time, these are okay?

6 A. Okay.

7 Q. If you need a break for any human
8 reason, at any time, you just say so and you
9 take your break, okay?

10 A. No problem.

11 Q. If you need to speak to your
12 attorney privately at any point, that's
13 perfectly fine, just say so, okay?

14 A. Yes.

15 Q. I am not allowed to ask you about
16 any conversations you had with your lawyers,
17 so leave that off to the side somewhere,
18 okay?

19 A. Okay.

20 Q. You are in New York, we could have
21 a whole conversation just using our hands
22 and our head as I am demonstrating now,
23 however, madam reporter has a very essential
24 job, we are making a written record of our
25 questions and our answers, so we all have to

K. STOUPAKAS

use our words when we are talking and when we are communicating so it gets captured in the record, okay?

A. **Correct.**

Q. I am fine if you wave around and move around, that's fine, of course, but you have to use your words, because that's what will be your official record today.

A. Yes.

Q. I think that's about it, if anything comes up during the session, just let us know, okay?

A. Okay.

Q. I am going to ask you a few questions. I am going to give road maps about what I am going to ask so you know what is coming. I will ask you a few questions about where you are, who might be around and then I will ask you about the case, okay?

A. Okay.

Q. Thank you, sir.

24 At the present time, are you at
25 home, are you at work, are you at a lawyer's

1 K. STOUPAKAS

2 office, where are you, sir?

3 A. I am at work.

4 Q. Are you alone in the space where
5 you are right now?

6 A. Yes.

7 Q. Witnesses have to speak for
8 themselves without other people helping. So
9 we are going to ask, you have please to shoe
10 away anybody that comes your way, okay?

11 A. No problem.

12 Q. Thank you, sir. You are not
13 allowed to interact with other people in the
14 middle of the session, okay?

15 A. That's fine.

16 Q. Sir, again, I am not going to ask
17 you what you spoke about with your lawyer, I
18 am not going to ask you about that, sir.
19 Instead, I am going to ask you, did you
20 review anything to get ready for today's
21 session, eyes on, papers, anything, computer
22 screens, document, anything?

23 A. No, not really.

24 Q. Are you coming in cold?

25 A. Yes.

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1 K. STOUPAKAS

2 Q. Sir, I am going to mention a
3 couple of company names, I will ask you if
4 you know them, if you are part of them, that
5 will be my next few questions.

6 A. Okay.

7 Q. Are you familiar at all with a
8 company called Kalnitech Construction
9 Company?

10 A. Yes.

11 Q. Sir, have you ever been an owner
12 of that company or an employee of that
13 company or connected to that company
14 somehow?

15 A. I am the owner of the company.

16 Q. Thank you, sir.

17 Can you tell us, approximately,
18 just approximately, sir, how long have you
19 been the owner, approximately?

20 A. I think I started in 2017.

21 Q. And for people not familiar with
22 this company, can you tell us, please, what
23 is the general nature of the business? What
24 type of work does that company do?

25 A. Residential, commercial.

1 K. STOUPAKAS

2 Q. Is this general contracting work
3 or something different?

4 A. Some general construction, some
5 sub-work.

6 Q. Sometimes general contracting, and
7 sometimes subcontracting work, both are
8 correct?

9 A. Yes.

10 Q. Sir, are you familiar at all with
11 a construction project back in 2019 located
12 at 217-14 Hempstead Avenue, somewhere in
13 Queens?

14 A. Yes.

15 Q. Was Kalnitech, the company, were
16 they involved in that project in one way or
17 another somehow?

18 A. Yes.

19 Q. Thank you, sir.

20 For people unfamiliar with this
21 project, could you tell us, please, what was
22 the general nature of the project? So for
23 example, was this new construction, was this
24 renovation of an existing building or you
25 tell me?

1 K. STOUPAKAS

2 A. Renovation of an existing
3 building.

4 Q. And for people not familiar with
5 this project, sir, would it best be
6 described as a residential building or a
7 hospital or a warehouse or a school, you
8 tell me what kind of building, sir?

9 A. Warehouse office.

10 Q. And sir, this was a renovation
11 project?

12 A. Yes.

13 Q. For people not familiar with the
14 building or buildings, sir, this project, is
15 it one building or multiple buildings or you
16 tell me?

17 A. It is one building.

18 Q. And sir, for people not familiar,
19 what is an easy way of describing this
20 building, is it a one-story building, is it
21 a high-rise?

22 A. It is a one-story building with a
23 basement.

24 MR. GASTMAN: Thank you, sir.

25 Q. If you recall, this building, is

1 K. STOUPAKAS

2 it in the middle of a block somewhere, is it
3 on a corner or is it better described some
4 other way?

5 A. The middle of the block.

6 Q. And sir, could you tell us,
7 please, what part of Queens, was this on
8 Hempstead Avenue, do you remember what part
9 of Queens this was?

10 A. I think it is called Queens
11 Village.

12 Q. And sir, for this particular
13 project, the Hempstead Avenue project, well,
14 actually, let me withdraw that and ask a
15 question just to make sure we are all clear
16 here.

17 Sir, with regard to Kalnitech, the
18 company and construction projects on
19 Hempstead Avenue in 2019, is there just one
20 project like that, sir, or were there more
21 than one project for Kalnitech on that road?

22 A. No, just one.

23 Q. Thank you. So if I talk about the
24 project, the Hempstead Avenue project, we
25 are on the same page, right, just one

1 K. STOUPAKAS

2 project?

3 A. Correct.

4 Q. Thank you, sir.

5 And this is the one-story
6 warehouse office type building?

7 A. Yes.

8 Q. Sir, for this particular project,
9 was Kalnitech hired by way of some sort of
10 like, written agreement, a contract?

11 A. No, not really.

12 Q. Were there maybe proposals that
13 went back and forth, did it go like that?

A. Proposals in as far as what?

15 Q. I apologize, sir, thank you for
16 stopping me.

17 Sir, I am just trying to figure
18 out what type kind of paperwork there might
19 have been between Kalnitech, the company and
20 whoever hired Kalnitech for this project,
21 there was a contract, yes or no?

22 A. No.

23 Q. Was it more of an oral agreement
24 or was it written in some other way?

25 A. More oral.

1 K. STOUPAKAS

2 Q. Sir, were you the gentleman, were
3 you the person on behalf of Kalnitech who
4 was negotiating this agreement with whoever
5 hired you?

6 A. Yes.

7 Q. Thank you, sir.

8 Do you remember, who was it, who
9 was on the other side, the owner or whoever
10 was hiring you people, who were you dealing
11 with?

12 A. David Kleeman.

13 Q. From your point of view, do you
14 connect Mr. Kleeman, with the owner of the
15 property or was he something different than
16 that?

17 A. No, he was the owner of the
18 property.

19 Q. Thank you, sir. I want to ask you
20 about a different company, have you ever
21 heard of a company called A.S.K., A.S.K.
22 Electrical Corporation?

23 A. Yes.

24 Q. Do you know one way or the other,
25 was this company, A.S.K. Electrical, were

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1 K. STOUPAKAS

2 they involved in any way at this project,
3 for example, were they an owner, a tenant, a
4 construction company, were they involved in
5 some way?

6 A. Well, David Kleeman is A.S.K.
7 Electric.

8 Q. So you associate Mr. Kleeman with
9 the owner of the building and you associate
10 him with the company, A.S.K. Electrical;
11 would that be fair?

12 A. Correct.

13 Q. Thank you, sir.

14 Sir, the renovation job that we
15 are talking about, sir, do you know, was
16 this done for A.S.K. Electrical or was
17 A.S.K. Electrical maybe a former tenant; do
18 you know?

19 A. Can you hold on a second.

20 Q. Sir, with regard to that company
21 A., s.K. Electrical Corporation, sir, do you
22 know one way or the other, was this the
23 tenant that space was being built for or was
24 that the old tenant or do you know?

25 A. The space was being built out for

1 K. STOUPAKAS

2 A.S.K. Electric.

3 Q. Sir, do you remember, do you know
4 what kind of company, what was in there
5 before this renovation project; do you know,
6 sir?

7 A. I don't know.

8 Q. Let me ask you, this, sir, if you
9 know, the company before A.S.K. Electrical,
10 was it an electrical company or was it
11 something completely different or you don't
12 know?

13 A. I don't know.

14 Q. I am going to ask you a few
15 questions next about you and Mr. Kleeman and
16 then I will ask you about the project, okay?

17 A. Okay.

18 Q. Thank you, sir.

19 When Mr. Kleeman hired Kalnitech
20 to assist with this project, was this the
21 first work Kalnitech was doing for
22 Mr. Kleeman or had there been other work in
23 the past?

24 A. This was the first project that
25 Kalnitech had done with.

1 K. STOUPAKAS

2 Q. If you recall, sir, how did you
3 gentlemen get together, how did you find
4 each other?

5 A. Well, I know Dave for several
6 years. We worked together in the previous
7 company that I was at.

8 Q. Okay. Thank you.

9 Sir, for the Hempstead Avenue
10 project we have been talking about, was
11 Kalnitech the company that was hired to be a
12 general contractor for the project or were
13 they hired to be one of the subcontractors
14 or something else?

15 A. No, we did a certain portion of
16 work there. We were one of the contractors
17 on the job.

18 Q. So Kalnitech did certain portions
19 of work and other companies did other
20 portions of the work; correct?

21 A. Yes.

22 Q. Sir, was there a general
23 contractor over Kalnitech on this particular
24 project or no?

25 A. Aside from David?

1 K. STOUPAKAS

2 Q. Okay. Well, was David, from your
3 point of view, was David the general
4 contractor?

5 A. Well, it was his space, so I
6 guess.

7 Q. I understand it is his space, I
8 got that part.

9 What I am wondering, did
10 Mr. Kleeman or any of his companies, did
11 they have a daily presence on this job site
12 like a general contractor would?

13 A. Yes.

14 Q. Thank you, sir.

15 I am going to ask you a few
16 questions next about who we might find on
17 this job site from day to day, I am going to
18 ask you those questions next, okay?

19 A. Okay.

20 Q. Thank you.

21 I realize every day on a
22 construction site can be different, I
23 realize that, I realize people get sick,
24 they have vacation days, there is bad
25 weather days, I understand all that, sir.

1 K. STOUPAKAS

2 But what I want to know is, putting aside
3 those type of instances, I would like to
4 know, sir, who was there from Mr. Kleeman's
5 company or companies on a daily basis doing
6 construction, would it be one or two guys or
7 100 guys or you tell me?

8 A. Well, initially, I mean,
9 initially, Dave would pass by, until it got
10 to a certain point when his electrical crew
11 came in. And then he had, I guess, his
12 foreman there.

13 Q. And when you say his foreman, sir,
14 I am just clarifying, this is David's
15 foreman, this is the electric company's
16 foreman, who did you mean?

17 A. Say that again.

18 Q. Yes, sir, I just want to clarify,
19 said when David would pass by until it
20 reached a certain point and then his
21 electrical people came in, yes?

22 A. Correct.

23 Q. And you mentioned that there
24 would, there was a foreman that would be
25 there from that point forward, yes?

1 K. STOUPAKAS

2 A. Yes.

3 Q. And the foreman that you were
4 thinking about, did he work for one of
5 Mr. Kleeman's companies, is that your
6 understanding, or is this a separate,
7 separate company?

8 A. No, he worked for David, A.S.K.
9 Electric.

10 Q. Thank you, sir. Do you happen to
11 recall that person's name, sir, the foreman
12 who would come in after the electrical
13 people started working?

14 A. I think the main guy that was
15 there, was it Duane, I think, Duane Dwight,
16 I think, something like that.

17 Q. Thank you, sir, if I mentioned a
18 name of Mr. Duane Hudson, does that ring a
19 bell, sir, is that the guy?

20 A. I don't remember the last name but
21 Duane does definitely sound familiar.

22 Q. Fair enough.

23 On this job, was there only one
24 Duane or was there more than one Duane?

25 A. I only remember one.

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1 K. STOUPAKAS

2 Q. And sir, no disrespect to anybody.

3 I was about to ask for a physical
4 description, but I guess everybody saw the
5 guy, he was at a department, so I won't.

6 Sir, I want to ask you a few
7 further questions about who may have been
8 there on a daily basis, other than sick
9 days, vacation days and things like that.

10 Sir, is it your understanding, sir
11 that he was pretty much there day to day,
12 other than vacation days, sick days, things
13 like that?

14 A. For the most part, yes, once the
15 electric started coming in, yes.

16 Q. Thank you, sir.

17 And sir, if you know, if you know,
18 sir, when Duane was around, when he was, was
19 he coming and going or would he be there the
20 whole day?

21 A. No, he was there most, for the
22 most part, most of the day.

23 Q. Thank you, sir.

24 And sir, from Mr. Kleeman's
25 company or companies, was there anybody else

1 K. STOUPAKAS

2 that would be found, pretty much day to day
3 on this construction site when work was
4 taking place or was it just Duane?

5 A. Other electricians, but I don't
6 recall all their names.

7 Q. And sir, these electricians you
8 are thinking of, can you tell me,
9 approximately, sir, are you thinking of two
10 guys, 200 guys, how many were there, these
11 electricians?

12 A. I think early on when they were
13 doing, I guess, the demo of the electrical
14 removals, maybe, four, five, six guys. I
15 don't think there was more than that at any
16 given time.

17 Q. And sometimes there were less,
18 yes?

19 A Yes

20 Q. Sir, it was your understanding
21 that these electricians, they worked for one
22 of Mr. Kleeman's companies; is that your
23 understanding?

24 A Yes

25 Q. And sir, if you know, if you know,

1 K. STOUPAKAS

2 were they working for some company called
3 Davs Partners or some other company, if you
4 know, sir, I am looking for the name of the
5 company of these electrical workers?

6 A. I just assumed that they worked
7 for A.S.K.

8 Q. Thank you. I understand the space
9 was being built out in 2019 for A.S.K.
10 Electrical, I understand, do you know, was
11 that company, did it exist and operate
12 somewhere else before this renovation, do
13 you know?

14 A. Which company?

15 Q. A.S.K. Electrical, do you know
16 were they operating somewhere else or in
17 that same space or you don't know, sir?

18 A. Yes.

19 Q. And forgive me for asking, but
20 when you say yes, yes, they were in the same
21 space, yes, you know they were somewhere
22 else?

23 A. No, they had an office prior to
24 that

8 In that building or somewhere

1 K. STOUPAKAS

2 | else?

3 A. No, somewhere else.

4 Q. Do you remember what part of the
5 world, approximately?

6 A. It was next to the BOE Gym, off
7 the BOE. I don't know exactly where it is.

8 Q. Sir, was there anybody else that
9 would be found day to day on this
10 construction site from Mr. Kleeman's
11 companies other than what we already spoke
12 about?

13 A. Ask the question one more time.

14 Q. Yes, sir.

15 You mentioned that Mr. Kleeman
16 would stop by sometimes, yes?

17 A. Yes.

18 Q. And he had a foreman who would
19 stop by after a certain point in the work,
20 Duane, yes?

21 A. Yes.

22 Q. And he had some electricians
23 there, yes?

24 A. Yes.

Q. Did Mr. Kleeman or his company

1 K. STOUPAKAS

2 have other workers of any sort on this job
3 site or did we describe everybody?

4 A. I am not following the question.

5 Q. I apologize, sir, that would be my
6 fault and thank you for stopping me.

7 In addition to Duane and
8 Mr. Kleeman and the electricians, did
9 Mr. Kleeman's companies have other workers
10 or supervisors on this job site?

11 A. Are you referring to other
12 contractor or other people from his company?

13 Q. Thank you, sir, I appreciate that,
14 I am trying to be clear and I thank you for
15 stopping me.

16 Sir, I want to ask you first about
17 Mr. Kleeman's companies and then I could ask
18 you about other companies after that, okay?

19 A. Okay.

20 Q. So let me ask a question so I have
21 a question and an answer so people reading
22 the book will follow what we are doing.

23 Sir, in addition to Mr. Kleeman
24 and Duane and Mr. Kleeman's electricians,
25 did Mr. Kleeman's companies have any other

1 K. STOUPAKAS

2 employees on this job site?

3 A. Aside from Duane, Mr. Kleeman.

4 Q. And the electricians, did the
5 Kleeman companies have other workers on this
6 job site or that is everyone, the Kleeman
7 companies?

8 A. That's everybody.

9 Q. Thank you, sir.

10 A. And there were other
11 subcontractors assisting on other portions
12 of the work, would that be fair?

13 A. Yes.

14 Q. Sir, are the other subcontractors,
15 do you know, sir, were they hired by
16 Mr. Kleeman's companies, were they hired by
17 Kalnitech, who hired the additional
18 subcontractors?

19 A. Well, I had brought in a few, a
20 few companies that I dealt with. And David
21 had brought in some other companies.

22 Q. Thank you, sir, thank you.

23 Q. Sir, I am going to break that down
24 a little bit, and I have a few questions.

25 Q. Sir, let me move onto the

1 K. STOUPAKAS

2 Kalnitech workers, these are employees of
3 Kalnitech.

4 A. Okay.

5 Q. What portion or portions of the
6 work did Kalnitech employees do on this job
7 site? For example, we did plumbing, we did
8 sheetrock, we did windows, you tell me, sir,
9 what portions of the work did your company
10 do?

11 A. So my portion did a little bit of
12 demo, a little bit of concrete work, a
13 little bit of painting, a little bit of
14 waterproofing in the basement, a little
15 patching on the roof, if they had leaks
16 while the stuff was going on.

17 Q. Thank you, sir.

18 Was that pretty much what
19 Kalnitech was doing or did you think of a
20 few more things?

21 A. For the most part, you know, just
22 little knickknacks, yes, hey, I need the
23 mailbox installed, can we knock this out of
24 the way, can we patch this.

25 Q. Thank you, sir.

1 K. STOUPAKAS

2 So it sounds like there might have
3 been some add-ons or change orders over
4 time; would that be fair?

5 A. Yes.

6 Q. Like a mailbox, would that be an
7 add-on top of thing?

8 A. It was not a contract per se
9 basically, I was just providing labor and we
10 were just doing whatever activities needed
11 to be done.

12 Q. Thank you, sir.

13 When somebody wanted Kalnitech to
14 do a little bit more, a mailbox or whatever,
15 who was telling Kalnitech what these
16 additional job tasks would be, who was
17 directing you guys?

18 A. Dave, it would come from Dave.

19 Q. Thank you. And sir, when David or
20 Mr. Kleeman, when he wanted to give
21 Kalnitech a little more work or add some
22 portion to the job, was it mostly a phone
23 call, was it mostly an e-mail, you tell me,
24 how would you generally normally
25 communicate?

1 K. STOUPAKAS

2 A. No, he would call me or if he
3 would stop by, he would be like, hey, you
4 know what, I want to do this today, can we
5 do this.

6 Q. Okay, thank you, sir.

7 Sir, did that project get
8 completed?

9 A. Did it get completed, yes.

10 Q. And sir, did Kalnitech stay on
11 until the work was done or did Kalnitech get
12 replaced later by somebody else?

13 A. No. I think I had finished our
14 portion of the work some time, like mid
15 June.

16 Q. So you guys stayed on until you
17 finished your portion of the work, yes?

18 A. Yes.

19 Q. You were not replaced by somebody
20 else?

21 A. No, no.

22 Q. Thank you.

23 MR. RICHMAN: Mid June of what
24 year?

25 THE WITNESS: 2019.

1 K. STOUPAKAS

2 MR. GASTMAN: 2019, the year of
3 the accident.

4 Q. Sir, I next want to ask you a few
5 questions, as best as you can recall.

6 Tell us, please, which
7 subcontractors, either by name or by trade,
8 which subcontractors did Kalnitech hire for
9 this project?

10 A. I brought in City Gates, because
11 he wanted to put some motors on the roll-up
12 gates outside, I brought in Vetro, who does
13 the storefronts, I am trying to think who
14 else. I brought in another contractor who
15 did the exterior, like the stucco, the
16 outside.

17 MR. BRIGANTIC: Those are the
18 invoices that we sent you.

19 MR. GASTMAN: The readers of this
20 record should know that this 2019 index
21 case, some additional discovery was
22 served today, May 11th, 2022. And it
23 is on my desk. And I am going to do my
24 best to review it and utilize it today.
25 Because I am getting stuff late, I am

K. STOUPAKAS

reserving rights to a further deposition later, but that's probably very unlikely.

MR. BRIGANTIC: Just so it is
r. The invoices were produced in
onse to the preliminary conference
r. That's fine but just know that
nvoices for what Gus is talking
c are the ones that were produced.

MR. GASTMAN: Thank you.

12 Q. Sir, I want to ask you next,
13 please, about who you recall that the owner,
14 in other words, Mr. Kleeman and his company,
15 what subcontractors did they hire, either by
16 name or by trade, any way you can?

17 A. He had brought in the framers,
18 carpentry firm who did the frame out.
19 Obviously, he did his own electrical. He
20 brought in his mechanical contractor, the
21 guy who did all the HVAC on the place and
22 plumber. And, I think, roofer at the end.

23 Q. Thank you, sir. Sir, I heard
24 about some other company name, let me locate
25 it, I will ask a few questions about it.

1 K. STOUPAKAS

2 Sir, with regard to the project we have been
3 talking about, do you know anything about
4 some company called Jim Associates
5 Corporation?

6 A. Yes.

7 Q. Did that company have some role on
8 this project?

9 A. Yes.

10 Q. Who was Jim Associate's, for
11 example, were they one of the
12 subcontractors, who are they?

13 A. Yes, they were the subcontractor
14 that was brought in, I guess, to do the
15 finishes.

16 Q. And forgive me if this was covered
17 already, is that like the exterior stucco
18 work or this is somebody else?

19 A. No, this is all the interior
20 stuff.

21 Q. This the interior finished work?

22 A. Right.

23 Q. Do you recall who hired Jim
24 Associates for this project, was it
25 Kalnitech, Mr. Kleeman or somebody else?

1 K. STOUPAKAS

2 A. Well, they were direct with Dave.

3 Q. Mr. Kleeman hired that company?

4 A. Correct.

5 Q. Mr. Stoupakis, when Kalnitech did
6 have people on site during construction, did
7 Kalnitech, the company, supervise any of the
8 subcontractors?

9 A. Say that again, did they supervise
10 any of the subcontractors?

11 Q. I apologize, it is my job to be as
12 clear as I can.

13 Sir, Kalnitech, the company, when
14 Kalnitech was on site, was that company
15 supervising any of the subcontractors?

16 A. No.

17 Q. Sir, how about the subcontractors
18 that were brought in by Kalnitech, was
19 Kalnitech, the company, supervising those
20 subcontractors?

21 A. Well, yes.

22 Q. Sir, how about the other
23 subcontractors, when Kalnitech was on site,
24 were they supervising any of the
25 subcontractors hired by the Kleeman people

1 K. STOUPAKAS

2 or no?

3 A. No.

4 Q. So if I said that in another way,
5 tell me if I am right or wrong, please,
6 Kalnitech supervised the contractors
7 Kalnitech brought in but nobody else; would
8 that be fair?

9 A. Correct.

10 Q. Thank you, sir.

11 Sir, with regard to this project,
12 did you get to know anybody at Jim
13 Associates, did you have some go-to person
14 or name, if you had any questions or issues?

15 A. Say that one more time.

16 Q. Yes, sir.

17 Did you end up with some sort of
18 go-to person at Jim Associates, someone you
19 know a name, you could call if you had a
20 question or something?

21 A. Do I know anybody at Jim
22 Associates, is that the question?

23 Q. Yes, was there some person that
24 you recall from this project from Jim
25 Associates?

1 K. STOUPAKAS

2 A. Yes.

3 Q. And what do you remember, sir, who
4 was that person?

5 A. George Moscosco.

6 Q. Did Kalnitech or Jim Associates
7 ever work together somewhere else?

8 A. We worked together at my previous
9 company.

10 Q. Was that the same previous company
11 that you mentioned earlier that you knew
12 Mr. Kleeman from?

13 A. Yes.

14 Q. If you recall, what was the name
15 of this former company where you made some
16 connections?

17 A. Masterpiece.

18 Q. For people not familiar with
19 Masterpiece, is that plumbing, a general
20 contractor?

21 A. It is a construction firm.

22 Q. Do you know one way or the other,
23 did Jim Associates' employees do the
24 interior finishing work or did Jim
25 Associates subcontract that work out to

1 K. STOUPAKAS

2 other people, if you know, sir?

3 A. No, they did it themselves.

4 Q. I next want to ask you about the
5 paper log that may have been generated on
6 this project.

7 Did Kalnitech do any sort of daily
8 log or daily report where there would be
9 some general information on the work of the
10 day?

11 A. Aside from just my man count and
12 what we were doing, I mean, nothing formal,
13 if that's what you are asking.

14 Q. The man count you are thinking of,
15 was this just for Kalnitech people or were
16 you keeping track of manpower for other
17 companies?

18 A. No, just Kalnitech.

19 Q. Do you know it all, in anyway, did
20 any of Mr. Kleeman's companies, were they
21 doing any daily log for this project, maybe
22 you heard about, maybe you saw it, or maybe
23 it doesn't exist?

24 A. I don't know.

25 Q. Let me ask you about your time on

1 K. STOUPAKAS

2 this project, were you there yourself from
3 time to time, sir?

4 A. Yes.

5 Q. Sir, when you were, were you the
6 top guy for the company?

7 A. My company, yes.

8 Q. Your company from Kalnitech, you
9 will be the top guy when you were there?

10 A. Yes.

11 Q. Sir, if you were not there, was
12 there somebody else from Kalnitech that
13 would be the top person?

14 A. No, I was there all the time when
15 work was going on. I would leave maybe for
16 an hour or two or something like that.

17 Q. You guessed my next question.

18 Sir, with regard to your time on
19 this project, putting aside vacation days,
20 sick days, bad weather days, things like
21 that, were you there pretty much day to day
22 or would your schedule differ?

23 A. No, I was pretty much there day to
24 day.

25 Q. On the days you were there day to

1 K. STOUPAKAS

2 day, were you splitting your time between
3 other jobs, or when you were there, you were
4 there for the day?

5 A. No, I was there, I was there for
6 the day, I think some time in, I want to say
7 probably May. But again, we were wrapping
8 up at that time, because there were more
9 trades inside the space and whatnot.

10 Q. I apologize, sir, let me just ask
11 that again, maybe a little differently.

12 Sir, when you were there, when you
13 were, were you spending pretty much the
14 whole day there or were you spending your
15 day with other projects that you may have
16 had to visit in the area?

17 A. No, well, most of my time was
18 spent there.

19 Q. Thank you, sir.

20 And when you were there, sir, you
21 were directing and supervising, your people,
22 the Kalnitech people?

23 A. Yes, I was supervising my people.

24 Q. And the subs you brought in?

25 A. Yes.

1 K. STOUPAKAS

2 Q. Sir, let me ask you, if you were
3 on the project and you were watching the
4 workers work and you saw one of your subs
5 doing something that looked dangerous to
6 you, could you stop them?

7 A. If I saw one of my subs doing
8 something that they were not supposed to?

9 Q. Yes?

10 A. Then I absolutely would stop them.

11 Q. Sir, I am going to switch gears a
12 little bit, I am going to ask you a few
13 questions now about Mr. Reyes Espinoza's
14 accident.

15 A. Okay.

16 Q. I mentioned his name before,
17 Stalin Rodrigo Reyes Espinoza, sir, does
18 that name ring a bell, do you know this guy?

19 A. Well, he is the plaintiff in the
20 lawsuit.

21 Q. Yes, sir, that is true.

22 But sir, do you know him, like,
23 did you meet him, would you recognize him if
24 you saw him, do you know this guy?

25 A. I had seen him once or twice

1 K. STOUPAKAS
2 towards the end, I guess when Jim Associates
3 started and we were ending, finishing or
4 whatnot.

5 Q. And is it your understanding that
6 the plaintiff, Mr. Reyes Espinoza, he was
7 working for that company, Jim Associates; is
8 that your understanding?

9 A. Correct.

10 Q. And this is somebody Mr. Kleeman
11 brought in, right, that company, right,
12 Mr. Kleeman brought them in, not you?

13 A. Say that again.

14 Q. Yes, sir.

15 This company, Jim Associates, they
16 were brought in by Mr. Kleeman's companies,
17 not you; correct?

18 A. When you say brought them in, we
19 both knew. we both know Jim Associates.

20 Q. For this particular project, can
21 you tell me which company hired Jim
22 Associates for this project?

23 A. I would -- Dave, so I would
24 imagine A.S.K.

Q. It was not you, not Kalnitech:

1 K. STOUPAKAS

2 right?

3 A. No.

4 Q. Thank you.

5 Sir, did you, yourself, did you
6 witness the accident, sir?

7 A. No, I did not.

8 Q. Sir, as far as you know, did any
9 of the Kalnitech people witness this
10 accident?

11 A. No. We weren't there at that
12 time.

13 Q. You are correctly guessing my next
14 question again, sir, do you know one way or
15 the other, on the date of the accident,
16 June 28th, 2019, do you know one way or the
17 other, did Kalnitech have any people,
18 anybody on site that day, if you know, sir?

19 A. No.

20 Q. And sir, I mean no disrespect, but
21 sir, could you tell us please, how do you
22 know or why do you think there was no
23 Kalnitech people that there that day?

24 A. Because I wasn't there.

25 Q. And sir, if you know, if you

1 K. STOUPAKAS

2 recall, was this a down day or Kalnitech had
3 already completely finished and they were
4 gone, you tell me, sir?

5 A. Yes, we had wrapped up probably a
6 week or two before. Maybe there was some
7 punch list items that we had to return back.

8 Q. Thank you, sir.

11 A. Yes, we were done, we were done at
12 that point.

13 O. So unless someone called you back?

14 A. Yes.

15 Q. From Kalnitech's point of view,
16 you were done?

17 A. Yes.

18 Q. Sir, do you know, did Kalnitech
19 get called back at all for any punch list
20 stuff after that date. June 28th. 2019?

21 A. I think the only thing, if I
22 remember, at some point, the storefront guy
23 had to come back and do some caulking and
24 touch-ups and something like that.

25 Q. If you recall, when Kalnitech came

1 K. STOUPAKAS
2 back for that storefront punch list work,
3 was Kalnitech back for hours, days, weeks,
4 months, do you know, sir, how long did they
5 come back?

6 A. It was one day. I met my sub-over
7 there just to make sure that she did the job
8 correctly so we don't have to come back.

9 Q. I am going to next ask you a few
10 questions, so I am giving you a road map. I
11 am going to ask you a few questions about
12 equipment and gear that Kalnitech may have
13 provided, may not have provided, so I am
14 giving you a little road map.

15 Sir, for the subcontractors hired
16 by Mr. Kleeman, did Kalnitech provide any
17 equipment to those subcontractors or no?

18 A. No.

19 Q. With regard to the subcontractors
20 that Kalnitech did hire, did bring in, sir,
21 did Kalnitech provide any equipment to those
22 subcontractors?

23 A No

24 Q. Sir, with regard to the
25 subcontractors that Kalnitech did bring in,

1 K. STOUPAKAS

2 did hire, sir, did Kalnitech provide any
3 safety gear of any type to those
4 subcontractors?

5 A. No.

6 Q. Sir, I next want to ask you a few
7 questions, please, about safety meetings
8 that you may have been involved in or heard
9 of or saw, those are my next couple of
10 questions, okay?

11 A. Okay.

12 Q. Thank you, did any of
13 Mr. Kleeman's companies, were they holding
14 any daily or weekly safety meetings that you
15 know about on this job site?

16 A. Not that I am aware of.

17 Q. Mr. Stoupakis, could you tell us,
18 please, how did you first become aware of
19 Mr. Reyes Espinoza's accident, did you get
20 a phone call, did you get paperwork in the
21 mail, how did you first find out about this?

22 A. About the accident?

23 Q. Yes.

24 A. I think they called me from the
25 site. I don't remember if it was Dave that

1 K. STOUPAKAS

2 called me or his foreman.

3 Q. And I realize time has gone by,
4 sir, the best you can, what were you
5 informed of, what did they tell you?

6 A. That somebody had fallen, that
7 somebody had fallen, gotten hurt on the job.

8 Q. Did they mention it was a ladder
9 accident, he fell from a ladder?

10 A. I don't remember.

11 Q. Thank you, sir.

12 Sir, whoever called you, whoever
13 it was, you came away with the understanding
14 that it was a worker from Jim Associates
15 that was injured; that was your
16 understanding, sir?

17 A. Yes.

18 Q. And you eventually found out it
19 was Mr. Reyes Espinoza?

20 A. Yes.

21 Q. Did anybody ever take you to the
22 location of accident to show you?

23 A. No.

24 Q. How about at any time, for any
25 reason, did anybody ever point out to you,

1 K. STOUPAKAS

2 hey, here, this is where the accident
3 happened?

4 A. I had passed by later on this the
5 day and they had told me that, I think he
6 was working by the closet area in the
7 garage, I think.

8 Q. And I may not have heard you
9 correctly, I may not have, did you stop by
10 after you got this call, you went over
11 there?

12 A. Later on, at the end of the day.

13 Q. Did anybody point out the ladder
14 or the accident location to you?

15 A. No, they just had said that he had
16 fallen from, I think, the closet area, I
17 think it was in the back of the garage.

18 Q. Did anybody ever point out a
19 ladder to you and say, yes, that one, did
20 anybody ever show you a ladder?

21 A. I don't remember.

22 Q. Sir, putting aside lawyer
23 conversations, put that aside, I am not
24 allowed to ask you about that, sir, did you
25 ever come to learn of any witnesses to the

1 K. STOUPAKAS

2 accident, somebody who actually saw what
3 happened?

4 A. Say that again.

5 Q. Sir, putting aside lawyer
6 conversations, I am not allowed to ask you
7 about that, sir, did you ever come to know
8 of any witnesses to the accident?

9 A. No, I don't know.

10 Q. Sir, did Mr. Kleeman ever tell you
11 whether he was there on the day of the
12 accident, did he ever tell you yes or no?

13 A. I don't remember.

14 Q. Did Mr. Kleeman ever give you,
15 have an understanding of which people were
16 there from the Kleeman companies? Did you
17 ever find out who was there?

18 A. Say that again.

19 Q. Did you ever come to learn who was
20 there on the job site on the day of the
21 accident, from Mr. Kleeman's companies?

22 A. I think Duane was there when I got
23 there at the end of the day. I mean, I
24 don't know who else was there earlier.

25 Q. Sir, when you saw Duane that day,

1 K. STOUPAKAS

2 did Duane give you any further information
3 other than what we already spoke about?

4 A. No.

5 Q. Do you know, one way or the other,
6 was there any video, surveillance, photo
7 gear set up at the job site that may have
8 captioned this accident when it happened?

9 A. I don't know.

10 Q. Did anybody ever tell you that
11 there are pictures or videos of the accident
12 itself? Did anybody ever tell you that?
13 Other than your lawyers, don't tell me that.

14 A. No.

15 (Whereupon, a short recess was
16 taken.)

17 Q. Sir, with regard to the project we
18 have been talking about, do you know any
19 company called Marfi Contracting, M-A-R-F-I?

20 A. Yes.

21 Q. What part of the job did they do?

22 A. They did the spray foam
23 insulation.

24 Q. Was Marty one of the
25 subcontractors hired by Kalnitech or not

1 K. STOUPAKAS

2 hired by Kalnitech?

3 A. No, they were one of the subs that
4 I brought on.

5 Q. Do you know what trade or trades
6 were working at the project on the date of
7 the accident, June 28th, 2019? We heard
8 about Jim Associates, but do you know, sir,
9 were there other trades working that day, if
10 you know?

11 A. I don't recall.

12 (Whereupon, an off-the-record
13 discussion was held.)

14 Q. Mr. Stoupakis, with regard to the
15 job that we have been talking about today,
16 did Jim Associates and company, were they
17 sometimes sending you the proposals instead
18 of Mr. Kleeman, does that sound right?

19 A. Say that again.

20 Q. Yes, sir.

With regard to the project we have been talking about today, the Hempstead Avenue job, did Jim Associates, the company, sometimes submit their proposals to you, Gus, rather than Mr. Kleeman?

1 K. STOUPAKAS

2 A. No.

3 Q. Was there another Gus on this job
4 that you know of, sir, or are you the only
5 Gus on this job site that you know of?

6 A. I am the only Gus that I know of.

9 Q. Putting aside lawyer
10 conversations, is there anything more about
11 this action that you know about that we
12 didn't talk about yet?

16 A. say that again one more time.

17 O. Putting aside lawyer

18 conversations, because I am not allowed to
19 ask you about that, sir, is there anything
20 more about this accident that we have not
21 spoken about yet?

22 A. Do I know anything more about this
23 accident that we have not spoken about yet?

24 Q. Yes, sir?

25 A. Like what?

1 K. STOUPAKAS

2 Q. Any details, who was there, what
3 happened, anything?

4 A. Aside from everything that I have
5 told you, no, that's it.

6 MR. GASTMAN: Thank you, sir.

7 I have no other questions for this
8 witness today. I thank you all for
9 your time. I thank you, Counsel, for
10 the discovery we received so far.

11 Special thanks for Madam Reporter.

12 I will stand by for other
13 questions, if you have any.

14 EXAMINATION BY

15 MR. KRICHMAN:

16 Q. Mr. Stoupakis, good afternoon. I
17 represent the defendant in this lawsuit,
18 Davs Partners, LLC. I am also going to ask
19 you a couple of questions. I am not going
20 to repeat anything that was already asked
21 you, but I may just go into a little
22 different areas that are in the same
23 category of what Mr. Gastman asked you?

24 A. Okay.

25 Q. With the same provisos, if you

1 K. STOUPAKAS
2 don't understand something, let me know and
3 don't guess at any of your answers, okay?

4 A. No problem.

5 Q. Do you know the name, D-A-V-S
6 Partners, LLC?

7 A. Yes.

8 Q. Did you know that name prior to
9 the commencement of this lawsuit?

10 A. Yes.

11 Q. And when did you first learn about
12 the name, Davis?

13 A. I guess when they brought the
14 mailbox saying that he is going to be
15 receiving mail at that time. Because the
16 post office was not delivering yet.

17 Q. And who was the person or persons
18 that told you what the name, Davs Partners
19 were?

20 A Dave

21 Q. Was that before you were hired to
22 work on this project?

23 A. No, I think it was after or
24 during

25 Q. And when you are referring to

1 K. STOUPAKAS

2 Dave, you are referring to Dave Kleeman;
3 right?

4 A. Yes.

5 Q. What did Dave Kleeman say to you
6 who Davs Partners was?

7 A. Davs was the owner of the
8 property.

9 Q. And was it your understanding that
10 A.S.K. Electric was going to physically
11 occupy the premises?

12 A. Yes.

13 Q. And was it also your understanding
14 that Davs Partners and A.S.K. Electric, both
15 of those entities were owned by David
16 Kleeman?

17 A. Say the question one more time.

18 Q. Did you have an understanding as
19 to whether or not Dave Kleeman owned Davs
20 Partners as well as A.S.K. Electric?

21 A. I believe he was one of the owners
22 of Davs.

23 Q. Did you ever learn who the owner
24 of Davs was?

25 A. I just assumed it was his

1 K. STOUPAKAS

2 daughters, Elana, Vanessa and Shayna.

3 Q. Did anyone ever tell you that or
4 are you just assuming?

5 A. No, I am just assuming.

6 Q. Shayna was who related to David
7 Kleeman?

8 A. Shayna was his daughter.

9 Q. Who was Vanessa?

10 A. Vanessa was his wife.

11 Q. When Mr. Gastman asked you who
12 hired you, Mr. Gastman asked you a question
13 who hired your company Kalnitech to perform
14 services?

15 A. David, David did.

16 Q. Now, when you say David, now, the
17 hiring of your services, Kalnitech services
18 was done verbally as opposed to a written
19 agreement; correct?

20 A. Yes.

21 Q. And when you say David hired you,
22 can you be more particular about which
23 entity or maybe both entities or somebody
24 else hired Kalnitech to perform services on
25 the project?

1 K. STOUPAKAS

2 MR. BRIGANTIC: Objection to the
3 form of the question. But you could
4 answer.

5 A. A.S.K. Electric.

6 Q. A.S.K. Electric?

7 A. Right.

8 Q. Did Davs ever hire Kalnitech to
9 your knowledge?

10 A. No.

11 Q. And originally, there was a
12 question asked about various subcontractors
13 that, quote-unquote, you brought in and
14 various subcontractors that David brought
15 in; do you recall that line of questioning?

16 A. Yes.

17 Q. And I believe you testified that
18 both you and David knew Jim Associates;
19 correct?

20 A. Yes.

21 Q. And that was in connection with
22 your prior company, right?

23 A. Yes.

24 Q. And did you have a conversation
25 with David about bringing tin Jim Associates

1 K. STOUPAKAS

2 to do work on the project?

3 A. He probably asked me do I have
4 anybody I could recommend. And I had told
5 him you could go with Moscosca because he
6 knew his work. We had all worked together
7 on a previous project many years ago.

8 Q. And it is your understanding that
9 David or A.S.K. hired Jim Associates, not
10 Kalnitech; correct?

11 A. Correct.

12 Q. Did you ever have a conversation
13 with David Kleeman along the lines that Jim
14 was going to be a subcontractor of
15 Kalnitech, but that notwithstanding, they
16 were going to be a subcontractor of
17 Kalnitech, A.S.K. was going to pay Jim
18 directly?

19 MR. BRIGANTIC: Object to the form
20 of the question, but you could answer.

21 A. No, never.

22 Q. Did you have a conversation,
23 something along those lines?

24 A. No.

25 Q. So it was your understanding that

1 K. STOUPAKAS

2 clearly Jim Associates was a subcontractor
3 of A.S.K. and not Kalnitech; correct?

4 A. Correct, they had met, I guess
5 they discussed the scope of the work, they
6 agreed to, I guess, a number and, you know
7 it, that was it.

8 Q. Did you ever supervise any of Jim
9 Associates work?

10 A. No.

11 No, at that point in time, they
12 were in the finish it, so Dave was around a
13 lot more often.

14 Q. So your company had no involvement
15 with supervising of any of Jim Associates
16 work?

17 A. No.

18 Q. Now, your attorney provided a
19 certificate of insurance and date of the
20 issuance of this certificate of insurance
21 was dated July 16, 2019. And it refers to
22 Kalnitech, your company, as the insured and
23 the certificate holder as an additional
24 insured to be A.S.K. Electrical Contracting
25 Corp.

1 K. STOUPAKAS

2 Do you recall having your company
3 buy insurance from Falls Lake Insurance
4 company in connection with in project.

5 MR. BRIGANTIC: What was that
6 question?

7 Q. Do you recall Kalnitech purchasing
8 insurance from Falls Lake Insurance in
9 connection with this project?

10 A. Falls Lake Insurance was my
11 insurance carrier.

12 Q. Did they issue insurance to
13 Kalnitech with regard to this project?

14 A. Yes.

15 Q. And was A.S.K. Electric named as
16 an additional insured on the Falls Lake
17 Insurance, as far as you know?

18 A. Yes, I believe so.

19 Q. And that was effective January
20 2nd, 2019; correct?

21 A. No.

22 Q. January 3, 2019?

23 A. No, January 3rd is when, I
24 believe, my insurance policy began. We were
25 requested to provide the ACORD sometime in

1 K. STOUPAKAS

2 2019.

3 Q. Who requested the ACORD
4 certificate?

5 A. I don't remember if it was an
6 e-mail from Dave or Kavita from his office.

7 Q. What is your understanding of who
8 Kavita is?

9 A. Kavita is, I would say, like,
10 office manager who handles the books over
11 there.

12 Q. So this ACORD certificate that
13 your lawyer produced today is dated
14 July 16th, 2019 naming as additional
15 insured, A. S.K. Electric, is that the first
16 time, to your understanding, that that
17 request was made by David Kleeman?

18 A. Yes.

19 Q. July 16th, 2019?

20 A. Yes.

21 Q. And were you working on the
22 project on July 16th, 2019?

23 A. July, no, like I said, the bulk of
24 my work was already done. If I was there,
25 maybe just for like some punch list items

1 K. STOUPAKAS

2 and whatnot. I don't recall.

3 Q. So tell me the reason why you
4 named and provided A.S.K. Electric as an
5 additional insured on July 16th, 2019?

6 A. Because they had sent an e-mail
7 saying that we need insurance. And we can't
8 cut any more checks, unless you have
9 insurance on file with us.

10 Q. As of July 16th, 2019, your work
11 was completed, except for some minor punch
12 list items; correct?

13 A. Correct.

14 Q. Sir, were permits taken out on
15 this job in connection with work that you
16 performed?

17 A. Yes.

18 Q. And those were requested by
19 Kalnitech with the DOB; correct?

20 A. Yes.

21 Q. And you have copies of those
22 permits?

23 A. I don't remember if I have a copy.

24 Q. Do you have a copy of any
25 paperwork that you submitted to DOB in

1 K. STOUPAKAS

2 connection with obtaining the permits?

3 A. No, I believe Dave's expediter had
4 done all the paperwork and just listing me,
5 I guess, on the forms.

6 Q. Did you see the forms that David's
7 expediter prepared for submission to the DOB
8 before they were submitted to DOB?

9 A. Did I see them, I am sure I did.
10 I had to sign them and send them back.

11 Q. So that's my next question.

12 So the forms that were prepared by
13 Dave's expediter, and an expediter, your
14 understanding of an expediter, they are, is
15 somebody that an owner would engage to
16 obtain permits from the DOB on an expedited
17 basis?

18 MR. BRIGANTIC: Object to the form
19 of the question, but he could answer.

20 A. Yes.

21 Q. So Dave's expediter, after he or
22 she prepared the forms for submission to
23 DOB, sent them to you for your signature;
24 correct?

25 A. Yes.

1 K. STOUPAKAS

2 Q. And did you review the forms that
3 were being submitted to the DOB?

4 A. Just looked where I needed to sign
5 and just sign.

6 Q. And did you see any information on
7 the forms at the time that you signed it
8 that was incorrect?

9 A. I don't recall. Like I said, I
10 don't recall actually reviewing the
11 paperwork.

12 Q. Do you recall that on those forms
13 that were submitted to DOB about that you
14 signed, you listed Kalnitech as a general
15 contractor on this project?

20 MR. RICHMAN: No.

21 MR. BRIGANTIC: Is there a reason
22 why it has not been produced?

23 MR. RICHMAN: I don't have a copy.
24 We are trying to find it.

25 MR. BRIGANTIC: Then I object to

1 K. STOUPAKAS

2 the question.

3 MR. RICHMAN: You could object. I
4 am asking him the question.

5 MR. BRIGANTIC: Wait a minute, you
6 are asking him what is in a document
7 that you have never seen.

8 MR. RICHMAN: I am asking him if
9 he recalls, what is wrong with that
10 question? If he says he doesn't
11 recall, he doesn't recall.

12 MR. BRIGANTIC: With my objection,
13 can you restate the question and he
14 could answer.

15 Q. Sir, you already testified that
16 you signed a form on this project that was
17 submitted to the DOB; correct?

18 A. Yes.

19 Q. And you don't recall whether or
20 not on the form that you signed that was
21 submitted to the DOB, whether or not you
22 were listed as a general contractor on this
23 project?

24 A. I don't recall.

25 Q. Do you know whether or not A.S.K.

1 K. STOUPAKAS

2 was listed as the general contractor?

3 A. I don't know, I don't recall.

4 Q. Is it your understanding that
5 Kalnitech was listed as a general contractor
6 as far as the DOB was concerned?

7 A. Say that again.

8 Q. Is it your understanding that
9 Kalnitech was listed as a general contractor
10 to the DOB?

11 MR. BRIGANTIC: Objection to the
12 form of the question. But you could
13 answer it.

14 A. Do I know if I was listed, if
15 Kalnitech was listed as a general
16 contractor, is that the question?

17 Q. That's the question?

18 A. No, I don't know if we were
19 listed, like I said, I didn't prepare the
20 paperwork.

21 Q. Did you receive any documents from
22 the DOB listing Kalnitech as a general
23 contractor?

24 A. Did I receive anything from DOB
25 listing?

1 K. STOUPAKAS

2 Q. Kalnitech as a general contractor,
3 yes, did you?

4 A. Yes.

5 Q. And when did you receive that
6 information or documents?

7 A. I don't recall, whenever we filed
8 for, whenever we filed the paperwork for
9 DOB.

10 Q. What is your understanding as to
11 what you were informed by DOB?

12 A. Say that again.

13 Q. What was your understanding of
14 what you saw?

15 A. I don't understand the question,
16 what was my understanding of what I saw?

17 Q. Yes, from DOB, did you receive
18 anything from DOB listing Kalnitech as a
19 general contractor?

20 A. We applied for our general
21 contractor's license. With DOB, if that's
22 what you are asking.

23 Q. No, I am talking about with regard
24 to obtaining permits on this job?

25 MR. BRIGANTIC: He is referring to

1 K. STOUPAKAS

2 this job or just his general.

3 MR. RICHMAN: I am referring to
4 this project.

5 MR. BRIGANTIC: I think he is
6 testifying, generally, I think that's
7 the issue.

8 THE WITNESS: Everything is
9 general.

10 MR. RICHMAN: Fair questioning,
11 let me clarify.

12 Q. Did you file or sign documents as
13 the general contractor for this project?

14 A. No.

15 Q. Do you know who did?

16 A. I don't know.

17 Q. Did you ever see any documents or
18 receive any information from DOB listing
19 Kalnitech as the general contractor on this
20 project?

21 A. What documents, specifically, are
22 you asking on? Because I am not sure I
23 understand.

24 Q. Any documents at all from DOB?

25 A. Did we receive anything from DOB

1 K. STOUPAKAS

2 saying that we are a general contractor on
3 this project? No, not that I recall.

16 THE WITNESS: Do I need to write
17 it down?

20 MR. BRIGANTIC: I will confer with
21 you regarding that.

o o o

Diamond Reporting
A Veritext Company

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1 K. STOUPAKAS

2 D E C L A R A T I O N

3

4 I hereby certify that having been first
5 duly sworn to testify to the truth, I gave
6 the above testimony.

7

8 I FURTHER CERTIFY that the foregoing
9 transcript is a true and correct transcript
10 of the testimony given by me at the time and
11 place specified hereinbefore.

12

13

14

15 KOSTAS STOUPAKIS

16

17

18 Subscribed and sworn to before me
19 this _____ day of _____ 20 _____.
20

21

22 NOTARY PUBLIC

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1 K. STOUPAKAS

2 I N D E X

4 EXAMINATION BY	PAGE
5 MR. GASTMAN	5
6 MR. RICHMAN	52
7 INFORMATION AND/OR DOCUMENTS REQUESTED	
8 INFORMATION AND/OR DOCUMENTS	PAGE
9 Produce any documents at all of any	68
10 involvement between Kalnitech, your	
11 company and DOB regarding this project	
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1 K. STOUPAKAS

2 C E R T I F I C A T E

3

4 STATE OF NEW YORK)

: SS.:

5 COUNTY OF QUEENS)

6

7 I, RIVKA TROP, a Notary Public for and
8 within the State of New York, do hereby
9 certify:

10 That the witness whose examination is
11 hereinbefore set forth was duly sworn and
12 that such examination is a true record of
13 the testimony given by that witness.

14 I further certify that I am not related
15 to any of the parties to this action by
16 blood or by marriage and that I am in no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 25th day of May, 2022.

20

21

22 *Rivka Trop*

23 RIVKA TROP

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ERRATA SHEET
VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: Reyes Espinoza, Stalin v. DAVS Partners LLC

DATE OF DEPOSITION: 5/11/2022

WITNESSES' NAME: Kostas Stoupakis

Kostas Stoupakis

SUBSCRIBED AND SWORN TO BEFORE ME
THIS DAY OF , 20 .

(NOTARY PUBLIC)

MY COMMISSION EXPIRES:

[& - attorneys]

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(a) Signing. The deposition shall be submitted to the witness for examination and shall be read to or by him or her, and any changes in form or substance which the witness desires to make shall be entered at the end of the deposition with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness before any officer authorized to administer an oath. If the witness fails to sign and return the deposition within sixty days, it may be used as fully as though signed. No changes to the transcript may be made by the witness more than sixty days after submission to the witness for examination.

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